

CHAPTER 26

DEPLOYMENT CONTRACTING

INTRODUCTION

- Applicable Law During a Deployment
- Wartime Funding
- Wartime Contract Law

PREPARATION FOR DEPLOYMENT CONTRACTING

- General Considerations
- Contracting Officer (KO) / Ordering Officer Support
- Administrative Needs
 - References
 - Contract Forms
 - Other Logistical Needs
- Finance and Funding Support

CONTRACTING DURING A DEPLOYMENT

- Competition Requirements
- Methods of Acquisition
 - Sealed Bidding as a Method of Acquisition
 - Negotiations (Competitive Proposals) as a Method of Acquisition
 - Simplified Acquisition Procedures
 - Purchase Orders
 - Blanket Purchase Agreements (BPAs)
 - Imprest Funds
 - Government Credit Card Program
 - Simplified Acquisition Competition Requirements
- Use of Existing Contracts to Fulfill Requirements
- Alternative Methods for Fulfilling Requirements
- Leases of Real Property

INTERNATIONAL LAW CONSIDERATIONS IN THE ACQUISITION OF SUPPLIES AND SERVICES

POLICING THE BATTLEFIELD

- Ratification of Contracts Executed by Unauthorized Personnel
- Extraordinary Contractual Actions
- General Accounting Office (GAO) Claims

CONCLUSION

APPENDIX A: STANDARD FORM 44

APPENDIX B: ORDERING OFFICER'S HANDBOOK

APPENDIX C: CONTRACT AND FISCAL LAW PECULIAR WEBSITES

Operations Desert Shield/Desert Storm highlighted the role that contracting plays in military operations. Contracting became an effective force multiplier for deployed forces. Operations Desert

Shield/Desert Storm also revealed that a challenging problem for deployed forces is compliance with contract and fiscal law while conducting military operations in the field. Recent operations in Somalia, Haiti, and Bosnia proved again the value of contracted support to a deployed force. Attorneys participating in future deployments must be prepared to handle contract and fiscal law issues.

The primary reason our forces conduct deployment contracting is because it serves as a force multiplier. It is a means of leveraging our assets and reducing our dependence on CONUS based logistics. In addition to serving as a force multiplier, deployment contracting also provides some collateral benefits. Some collateral benefits of deployment contracting are: (1) contracting with local sources frees-up our limited air and sea lift assets for other higher priority needs; (2) contracting with local contractors reduces the time between identification of needs and the delivery of supplies or performance of services; and (3) contracting with local contractors provides alternative sources for supplies and services.

Applicable Law During a Deployment. Contracting during a deployment involves two main bodies of law: international law, and U.S. contract and fiscal law. Attorneys must understand the authorities and limitations imposed by these two bodies of law.

International Law.

The Law of War -- Combat.

The Law of War -- Occupation (may be directly applicable, or followed as a guide when no other laws clearly apply, such as in Somalia during Operation Restore Hope).

International Agreements.

U.S. Contract and Fiscal Law.

Armed Services Procurement Act of 1947, as amended. 10 U.S.C. §§ 2301-31.

Federal Acquisition Regulation (FAR) and Agency Supplements.

Fiscal Law. Title 31, U.S. Code; DFAS-IN 37-1; DFAS Manual 37-100-95.

Executive Orders and Declarations.

Wartime Funding. Congressional declarations of war and similar resolutions may result in subsequent legislation authorizing the President and heads of military departments to expend appropriated funds to prosecute the war as they see fit. However, recent military operations (Bosnia, Haiti, Somalia, Desert Shield/Desert Storm, Panama, Grenada) were not declared "wars."

Wartime Contract Law. Congress has authorized the President and his delegates to initiate contracts that facilitate national defense notwithstanding any other provision of law. Pub. L. No. 85-804, *codified at* 50 U.S.C. § 1431-1435; Executive Order 10789 (14 Nov. 1958); FAR Part 50. These powers are extremely broad, but authority to obligate funds in excess of \$50,000 may not be delegated lower than the Army Secretariat. Earlier versions of this statute were the basis for the wholesale overhaul of defense acquisition at the beginning of World War II. This may occur again in a future general conflict. Although these are broad powers, Congress still must provide the money to pay for obligations incurred under this authority.

PREPARATION FOR DEPLOYMENT CONTRACTING

The Unified Command or MACOM controlling the deployment will set policy and procedure affecting contracting plans. Coordinate with the controlling headquarters and other MACOMs that will have roles in expected deployments. OPLANs will determine when the contracting personnel will deploy. The contracting element generally consists of contracting officers, ordering officers, legal and other support personnel.

General Considerations. Recent operations have demonstrated the need to begin planning early for contracting during a deployment. The personnel necessary for effective contracting must be identified and trained. Units must develop plans for contracting personnel/teams to deploy with the organization. Units must realize that assets for contracting normally will come from their organic resources. Reserve assets may provide some contracting support. Coordinate in advance to determine the extent of this support.

Contracting Officer (KO) / Ordering Officer Support. Commanders should identify KO/ordering officer support requirements. Only contracting officers and their authorized representatives (e.g., ordering officers) may obligate government funds. KOs award, administer, or terminate contracts and make determinations and findings permitted by statute and regulation. FAR 1.602-1.

Commanders should ensure that KOs and ordering officers are properly appointed and trained. The Head of Contracting Activity (HCA), an attaché, a chief of a foreign mission (Army), or certain officials in the Army Secretariat may appoint KOs. FAR 1.603; AFARS 1.603-2. An HCA may delegate appointment power to a Principal Assistant Responsible for Contracting (PARC). This is the official who usually exercises authority to hire and fire KOs.

The chief of the contracting office may appoint ordering officers. AFARS 1.603-1(2). There is no specific guidance on appointing ordering officers -- common practice is to appoint a commissioned officer, warrant officer, or noncommissioned officer. Ordering officers usually are not part of the contracting element, but are a part of the forward units. Ordering officers make purchases with imprest funds, make over the counter purchases with SF 44s, and issue delivery orders against existing indefinite delivery contracts awarded by KOs. AFARS 1.603-1-90. Ordering officers may also be government credit card holders. AFARS 13.9. KOs and ordering officers are subject to limitations in their appointment letters and procurement statutes and regulations. Contracting authority may be limited by dollar amount, subject matter, purpose, time, etc., or may be unlimited. Typical limitations are restrictions on the types of items that may be purchased and on per purchase dollar amounts.

Administrative Needs. Deployable units should assemble contracting support kits. Package and label kits in footlockers or similar containers for easy deployment. Administrative needs forgotten may be difficult to obtain in the area of operations. The kits should contain a 90-day supply of administrative needs and all essential references.

References.

Statutes: Titles 10, 22, 31, and 41 of U.S. Code.

Regulations: FAR, DFARS, AFARS/AFFARS/NAPS, DFAS-IN 37-1, DFAS-IN Manual 37-100-95, DOD Reg. 7000.14-R, vol. 5, and command supplements to these regulations. If these are too much to deploy with, take a pocket FAR or the CFR version maintained with your own updating. If possible, take CD-ROM contract references and LEXIS/WESTLAW software, as well as necessary computer and communications equipment.

Contract Forms.

These are essential. The contracting element should ensure it brings a 90-day supply of: Standard Form (SF) 44s (Purchase Order-Invoice-Voucher), DD Form 1155s (Purchase Order), SFs 26, 30, 33, and 1442 (solicitation, award, and modification, and construction solicitation forms), DA Form 3953 (Purchase Request and Commitment), and form specifications for common items, such as: Subsistence items; Labor and Services; Fuel; Billeting; Construction Materials; Fans, Heaters, etc.

Typing contract documents manually is tedious and time-consuming. Contracting elements should deploy with Standard Army Automated Contracts System (SAACONS) software loaded on personal computers for automated production of contract documents. Otherwise, ensure the contracting office obtains the FAR in CD form, together with software necessary to lift FAR provisions from the CD to word-processing documents. Translation of contract forms, specifications, and other provisions also should be obtained before deployment if possible.

Other Logistical Needs.

Bring maps, area phone books, catalogs with pictures, etc., to assist in finding and dealing with potential vendors in the deployment theater. Also bring desks, typewriters, computers, paper, etc., as well as personnel trained to use them. Arrange for translator support for the contracting element (coordinate with Civil Affairs unit in COSCOM or TAACOM; contact embassy if necessary to obtain this support). Deploy with a notebook computer, and include a CD-ROM drive to access FAR, DFARS, and service supplements to the FAR, if these references are available in this format.

Finance and Funding Support. Finance specialists are not part of the contracting element and not under its control. A deploying unit should train its personnel to properly account for funds when they must do so without the aid of a finance office. Generally, deploying units will receive a bulk-funded DA Form 3953, Purchase Request and Commitment (PR&C) if requested to support needs while deployed.

Consider establishing an imprest fund in advance of deployment notification. FAR 13.4; DFARS 213.4; DOD Reg. 7000.14-R, vol. 5, paras. 020906 to 020907. Practice making purchases with the fund to support unit requirements in garrison. Installation commanders may establish funds up to \$10,000. An imprest fund operates like a petty cash fund; it is replenished as payments are made from it. The fund should include local currency if available before deployment. FAR 25.501 requires that off-shore procurements be made with local currency, unless the contracting officer determines the use of local currency inappropriate (e.g., if a SOFA exists and it allows use of U.S. dollars).¹

Finance personnel or designees (e.g., Class A agents) hold money and will accompany an ordering officer to actually make payment if a vendor will not take SF 44 or other contract document and invoice the U.S. later. Identify the deploying Class A paying agents, and ensure they are appointed and trained as necessary.

CONTRACTING DURING A DEPLOYMENT

This section discusses various methods used to acquire supplies and services. It begins with a general discussion of seeking competition, and discusses specific alternatives to acquiring supplies and services pursuant to a new contract to meet the needs of a deploying force. The key to successful contracting operations is the proper training and appointment of contracting personnel. Units should verify that contracting support personnel have received necessary training. If time permits, provide centralized refresher training. Also review warrants and letters of appointment for contracting officers and ordering officers for currency. Ensure that personnel know the limitations on their authority. Review and update contents of contracting support kits. Ensure that references include latest changes.

Competition Requirements. The Competition in Contracting Act, 10 U.S.C. § 2304, requires the government to seek competition for its requirements. In general, the government must seek for full and open competition, by providing all responsible sources an opportunity to compete. No automatic exception is available for contracting operations during deployments.

The statutory requirement for full and open competition for purchases over the simplified acquisition threshold creates a 45-day minimum procurement administrative lead time (PALT) for solicitations issued, and contracts awarded and performed, within the Continental U.S. (CONUS). The 45-day PALT results from a requirement to publish notice of the proposed acquisition 15 days before issuance of the solicitation (thru synopsis of the contract action in the Commerce Business Daily (CBD)), then to provide a minimum of 30 days for offerors to submit bids or proposals. Three additional time periods extend the minimum 45-day PALT: 1) time needed for requirement definition and solicitation preparation; 2) time needed for evaluation of offers and award of the contract; and 3) time needed after contract award for delivery of supplies or performance of services. Exceptions to the usual requirement for full and open competition include:

- (1) Unusual and compelling urgency; this exception authorizes a contract action without full and open competition. It permits the contracting officer to limit the number of sources solicited to those who are able to meet the requirements in the limited time available. FAR 6.302-2. This exception also authorizes an agency to dispense with publication periods (minimum 45-day PALT) if the government would be seriously injured by this delay. It also allows preparation of written justifications for limiting competition after contract award. FAR 6.302-2(c)(1).
- (2) National security is another basis for limiting competition; it may apply if the existence of the operation or the acquisition is classified. Mere classification of specifications generally is not sufficient to restrict the competition, but it may require potential contractors to possess or qualify for appropriate security clearances. FAR 6.302-6.

¹ Effective 1 October 1996, use of imprest funds by DOD activities in CONUS is no longer authorized. Effective 1 October 1997, use of imprest funds is not authorized OCONUS. However, the use of imprest funds is authorized for use in declared contingency operations. See message, Under Secretary of Defense (Comptroller), Subject: Elimination of Imprest Funds (28 March 1996).

(3) Public interest is another exemption to full and open competition, but only the head of the agency can invoke it. FAR 6.302-7.

Use of the urgent and compelling, national security, and public interest exceptions requires a "Justification and Approval", (J&A). FAR 6.303. Approval levels for justifications are listed in FAR 6.304:

Actions under \$500,000: the contracting officer.

Actions from \$500,000 to \$10 million: the competition advocate.

Actions from \$10 million to \$50 million: the HCA or designee.

Actions above \$50 million: the agency acquisition executive; for the Army this is the Assistant Secretary of the Army for Research, Development, and Acquisition (ASA(RDA)).

Contract actions awarded and performed outside the United States, its possessions, and Puerto Rico, for which only local sources will be solicited, generally are exempt from compliance with the requirement to synopsis the acquisition in the CBD. These actions therefore may be accomplished with less than the normal minimum 45-day PALT, but they are not exempt from the requirement for competition. See FAR 5.202 (a)(12); *see also* FAR 14.202-1(a) (thirty-day bid preparation period only required if requirement is synopsized). Thus, during a deployment, contracts may be awarded with full and open competition within an overseas theater faster than within CONUS, thus avoiding the need for a J&A for other than full and open competition for many procurements executed in rapid fashion. Obtain full and open competition under these circumstances by posting notices on procurement bulletin boards, soliciting potential offerors on an appropriate bidders list, advertising in local newspapers, and telephoning potential sources identified in local telephone directories.

Methods of Acquisition.

Sealed bidding: award is based only on price and price-related factors, and is made to the lowest, responsive, responsible bidder.

Negotiations (also called "competitive proposals"): award is based on stated evaluation criteria, one of which must be cost, and is made to the responsible offeror whose proposal offers either the lowest cost, technically acceptable solution to the government's requirement, or the technical/cost trade-off, even if it is not lowest in cost. The basis for award (low-cost, technically-acceptable or trade-off), and a description of the all factors and major subfactors that the contracting officer will consider in making this determination, must be stated in the solicitation.

Simplified acquisition procedures: simplified acquisition procedures are for the acquisition of supplies, nonpersonal services, and construction in amounts less than the simplified acquisition threshold.

Sealed Bidding as a Method of Acquisition.

Sealed bidding procedures must be used if the four conditions enumerated in the Competition in Contracting Act exist. 10 U.S.C. § 2304(a)(2)(A); Racal Filter Technologies, Inc., B-240579, Dec. 4, 1990, 70 Comp. Gen. 127, 90-2 CPD ¶ 453.

1. Time permits the solicitation, submission, and evaluation of sealed bids;
2. Award will be made only on the basis of price and price-related factors;
3. It is not necessary to conduct discussions with responding sources about their bids; and
4. There is a reasonable expectation of receiving more than one sealed bid.

Use of sealed bidding results in little discretion in the selection of a source. Bids are solicited using Invitations for Bids (IFBs) under procedures that do not allow for pre-bid discussions with potential sources. A clear description/understanding of the requirement is needed to avoid having to conduct discussions. Sealed bidding requires more sophisticated contractors because minor errors in preparing a bid prevent the government from accepting the offer, because such errors are likely to make the bidder nonresponsive. Only fixed-price type contracts are awarded using these procedures. Sealed bidding procedures seldom are used during active military operations. The fluidity of a military operation generally requires discussions with responding offerors to explain our requirements and/or to assess their understanding of, and capability

to meet, U.S. requirements. Accordingly, sealed bidding procedures rarely are used until the situation has stabilized. See FAR Part 14.

Negotiations (Competitive Proposals) as a Method of Acquisition.

Negotiations are used when the use of sealed bids is not appropriate. 10 U.S.C. § 2304(a)(2)(B). Negotiations permit greater discretion in the selection of a source, and allow consideration of non-price factors in the evaluation of offers, such as technical capabilities of the offerors, past performance history, etc. Offers are solicited by use of a Request for Proposals (RFP). Discussions with offerors permit better understanding of needs and capabilities. Negotiations permit the use of any contract type. Negotiations procedures also permit the use of letter contracts and oral solicitations to expedite awards of contracts and more rapidly fulfill requirements. See FAR Part 15.

Simplified Acquisition Procedures.

"Simplified acquisition" refers to contractual actions up to \$100K in peacetime and during normal military exercises, or up to \$200K during a contingency operation declared by the Secretary of Defense, or a humanitarian or peacekeeping operation, for contracts awarded and performed outside the United States. 10 U.S.C. § 2302(7); DFARS 213.000; Army Acquisition Letter (AL) 94-9. The Department of Defense has invoked this increased threshold during recent contingency operations, including during Operations Desert Storm/Desert Shield in the gulf region, Operation Restore Hope in Somalia, Operation Restore Democracy in Haiti, and during Operation Joint Endeavor in and around Bosnia.

About 95% of the contracting activity conducted in a deployment setting will be simplified acquisitions. The following are various methods of making or paying for these simplified purchases. Most of these purchases can be solicited orally, except for construction projects exceeding \$2000 and complex requirements. The types of simplified acquisition procedures likely to be used during a deployment are:

- (1) Purchase Orders. FAR Subpart 13.5; DFARS Subpart 213.5; AFARS Subpart 13.5.
- (2) Blanket Purchase Agreements (BPAs). FAR Subpart 13.2; DFARS Subpart 213.2; AFARS Subpart 13.2.
- (3) Imprest Fund Purchases. FAR Subpart 13.4; DFARS Subpart 213.4; AFARS Subpart 13.4.
- (4) Government Credit Card Purchases. AFARS Subpart 13.9.
- (5) Commercial Items Acquisitions.

Purchase Orders.

A purchase order is an **offer** to buy supplies or services, including construction. Purchase orders usually are issued only after requesting quotations from potential sources. Issuance of an order does not create a binding contract. A contract is formed when the contractor accepts the offer either in writing or by performance. In operational settings, purchase orders may be written using two different forms.

- (1) Dep't of Defense (DD) Form 1155. This is a multi-purpose form which can be used as a purchase order, blanket purchase agreement, receiving/inspection report, property voucher, or public voucher. It contains some contract clauses, but users must incorporate all other applicable clauses. FAR 13.507; DFARS 213.507. See clause matrix in FAR Part 52. When used as a purchase order, the KO may make purchases up to the simplified acquisition threshold. Only KOs are authorized to use this form.
- (2) Standard Form (SF) 44. See Appendices A & B. This is a pocket-sized form intended for over-the-counter or on-the-spot purchases. Clauses are not incorporated. Use this form for "cash and carry" type purchases. Ordering officers, as well as KOs, may use this form. Reserve unit commanders may use the SF 44 for purchases not exceeding \$2,500 when a Federal Mobilization Order requires unit movement to a Mobilization Station or site, or where procurement support is not readily available from a supporting installation. AFARS 1.603-1-90(c). Conditions for use:
 - As limited by appointment letter.
 - Away from the contracting activity.

- Goods or services are immediately available.
- One delivery, one payment.

Ordering officers may use SF 44s for purchases up to \$2,500 for supplies or services, except purchases up to the simplified acquisition threshold may be made for aviation fuel or oil. A KO may make purchases up to the simplified acquisition threshold (\$100K normally, or \$200K if overseas in the theater where the SECDEF has declared a contingency).

Blanket Purchase Agreements (BPAs).

A BPA is a simplified method of filling anticipated repetitive needs for supplies or services essentially by establishing "charge account" relationships with qualified sources of supply. They are not contracts but merely advance agreements for future contractual undertakings. BPAs set prices, establish delivery terms, and provide other clauses so that a new contract is not required for each purchase. The government is not bound to use a particular supplier as it would be under a requirements contract. KO negotiates firm-fixed-prices for items covered by the BPA, or attaches to the BPA a catalog with pertinent descriptions/prices. BPAs are prepared and issued on DD Form 1155 and must contain certain terms/conditions. FAR 13.203-1(j):

- (1) Description of agreement.
- (2) Extent of obligation.
- (3) Pricing.
- (4) Purchase limitations.
- (5) Notice of individuals authorized to purchase under the BPA and dollar limitation by title of position
- (6) Delivery ticket requirements.
- (7) Invoicing requirements.

KOs may authorize ordering officers and other individuals to place calls (orders) under BPA's. AFARS 13.204-90. Existence of a BPA does not per se justify sole-source acquisitions/procurements. Consider BPAs with multiple sources. If insufficient BPAs exist, solicit additional quotations for some purchases and make awards through separate purchase orders.

Imprest Funds.²

An imprest fund is a cash fund of a fixed amount established by an advance of funds from a finance or disbursing officer to a duly appointed cashier. The cashier disburses funds as needed to pay for certain simplified acquisitions. Funds are advanced without charge to an appropriation, but purchases are made with notation on the receipts returned to the imprest fund cashier of the appropriation which will be used to reimburse the imprest fund for the amount of the purchase. Maximum amount in a fund at any time is \$10,000. During overseas contingencies declared by SECDEF, the maximum amount of a single transaction is \$2500. DFARS 213.404.

Ordering officers, as well as KOs, may use the imprest fund procedures. Imprest fund cashiers, however, cannot be ordering officers and cannot make purchases using imprest funds.

Each purchase using imprest funds must be based upon an authorized purchase requisition. If materials or services are deemed acceptable by the receiving activity, the receiver annotates the supplier's sales document and passes it to the imprest fund cashier for payment.

Government Credit Card Program.

Authorized government credit card holders, including a KO, may use the cards to purchase goods and services up to \$2,500 per purchase. A KO may use the card as a method of payment for purchases up to the simplified acquisition threshold when used in conjunction with a simplified acquisition method. Funds must be available to cover the purchases. Special training for cardholders is required. AFARS Subpart 13.9. Issuance of these cards to deploying units must be coordinated prior to deployment, because there is insufficient time to request and receive the cards once the unit receives notice of deployment.

² See note 1, *supra*, regarding the phased elimination of imprest funds.

Commercial Items Acquisitions.

Much of our deployment contracting involves purchases of commercial items. The KO is authorized to make commercial item acquisitions up to \$5,000,000. This procedure is commonly known as "special simple" commercial procedures. 10 U.S.C. § 2304(g)(1)(B); FAR 13.601. Under this procedure the KO may use any simplified acquisition methods.

Simplified Acquisition Competition Requirements.

Competition requirements apply to simplified acquisitions as well as to larger procurements. For new purchases up to \$2,500, only one oral quotation is required, if the KO finds the price to be fair and reasonable. Northern Virginia Football Officials Assoc., B-231413, Aug. 8, 1988, 88-2 CPD ¶ 120. The KO should distribute such purchases equitably among qualified sources. Grimm's Orthopedic Supply & Repair, B-231578, Sept. 19, 1988, 88-2 CPD ¶ 258. If practical, solicit a quotation from other than the previous supplier before placing a repeat order.

For purchases between \$2500 and the simplified acquisition threshold (\$100K normally, \$200K during declared contingencies), obtain oral quotations from a reasonable number of sources. Omni Elevator, B-233450.2, Mar. 7, 1989, 89-1 CPD ¶ 248. Generally, the rule of three applies and soliciting three sources is considered reasonable. If practicable, solicit two sources not included in the previous solicitation. FAR 13.106(b)(1) & (5). You normally should also solicit the incumbent contractor. J. Sledge Janitorial Serv., B-241843, Feb. 27, 1991, 91-1 CPD ¶ 225.

Use written solicitations for construction over \$2000 or when oral quotations are not feasible. If only one source is solicited, justify the absence of competition in writing.

Requirements aggregating more than the simplified acquisition dollar limitations may not be broken down into several purchases to permit the use of simplified acquisition procedures. FAR 13.103(b).

Subject to the following exceptions, the KO is not required to publicize contract actions that will not exceed the simplified acquisition threshold:

- (1) Public posting of the request for quotations for 10 days is required if the order is estimated to exceed \$10,000, except when ordering perishable subsistence items. 15 U.S.C. § 637(e); 41 U.S.C. § 416; FAR 5.101.
- (2) For a CONUS contract action, if the order is estimated to exceed \$10,000, and only one source is expected to compete, publish notice of the Request for Quotations (RFQ) in the Commerce Business Daily (CBD). 41 U.S.C. § 416. California Properties, Inc., B-232323, Dec. 12, 1988, 68 Comp. Gen. 146, 88-2 CPD ¶ 581. KOs must also publish a synopsis of CONUS sole-source awards in the CBD. 15 U.S.C. § 637(e).
- (3) There is no requirement to publish a synopsis of pending contract actions by defense agencies which will be made and performed outside the U.S., its possessions or Puerto Rico, and for which only local sources will be solicited. Many KOs forget the "local sources only" limitation.

In evaluating quotations, if the KO receives a single quotation, the KO must verify price reasonableness (e.g., through obtaining another quote, or by comparison with established catalog prices) only when the requiring activity or the KO suspects or has information to indicate that the price may not be reasonable, or when the government is purchasing an item for which no comparable pricing information is available (e.g., an item that is not the same as, or similar to, other items recently purchased on a competitive basis). If a price variance between multiple quotations reflects a lack of adequate competition, the KO must document how he determined the price to be fair and reasonable. FAR 13.106(c).

Occasionally an item can be obtained only from a supplier who quotes a minimum order price or quantity that either unreasonably exceeds stated quantity requirements or results in an unreasonable price for the quantities required. In these instances, the KO should inform the requiring activity of all facts regarding the quotation, and request it to confirm or alter its requirement. The file shall be documented to support the final action taken.

Use of Existing Contracts to Satisfy Requirements. Existing ordering agreements, indefinite delivery contracts, and requirements contracts may be available to meet recurring requirements, such as fuel and subsistence items. Investigate existence of such contracts with contracting offices of units and activities with continuing missions in the deployment region. For example, the Navy had an existing contract for the provision of shore services to its ships in the port of Mombasa, Kenya, which was used in lieu of new contracts to provide services to air crews operating out of Mombasa during Operation Provide Relief.

The U.S. Army Communications and Electronics Command (CECOM) has a cost-type contract known as LOGCAP (Logistics Civil Augmentation Program) which provides for comprehensive logistics and construction support to a deployed force anywhere in the world. By using this contract to provide logistics support to a deployed force, a commander can perform a military mission with a much smaller force than might otherwise be necessary, and without developing and awarding an entirely new contract to obtain required support. See AR 700-137.

LOGCAP is primarily designed for use where no treaties exist but can be used CONUS as well as OCONUS. LOGCAP is designed to develop support for an arriving force in an austere environment to provide for basic needs such as water, sewage, electricity, etc. LOGCAP may also provide services such as force sustainment, construction, and other general logistics support.

LOGCAP is an expensive contracting tool and should be used as a last resort. Examples of recent LOGCAP funding include: \$100 million in Somalia, \$122 million in Haiti, and \$500 million in Bosnia. These high costs associated with LOGCAP contract has resulted in closer scrutiny by Congress. In a recent report, the GAO noted that commanders were unaware of the cost ramifications for what they were doing. In Bosnia, the unit commanders wanted to accelerate the base camp construction and required the contractor to fly in the plywood from the U.S. because there was insufficient supply on the local markets. The commanders did not realize that the cost of plywood would cost them about 86 per sheet because it only costs \$14.06 in the U.S. They thought they were paying only \$14.

Alternative Methods for Fulfilling Requirements. New and existing contracts are not the only method of meeting the needs of deployed military forces. The military supply system is the most common source of supplies and services. Cross-servicing agreements and host-nation support agreements exist with NATO, Korea, and other major U.S. allies. Similarly, under the Economy Act, other government agencies may fill requirements for deployed forces, either from in-house resources or by contract. Finally, service secretaries retain substantial residual powers under Public Law 85-804 which may be used to meet critical requirements that cannot be fulfilled using normal contracting procedures.

Host nation support and cross-servicing agreements as means of fulfilling the needs of deployed U.S. forces are addressed in 10 U.S.C. § 2341-50; DOD Dir. 2010.9; AR 12-16. These authorities permit acquisitions and transfers of specific categories of logistical support to take advantage of existing stocks in the supply systems of the U.S. and allied nations. Transactions may be accomplished notwithstanding certain other statutory rules related to acquisition and arms export controls. However, except during periods of active hostilities, reimbursable transactions (i.e., those where repayment in kind is not possible) are limited to a total of \$150M (credit) / \$200M (liability) per year for NATO and \$75M (credit) / \$60M (liability) per year for non-NATO allies. The usefulness of these arrangements may be limited when the host nation has not invited U.S. intervention, or when the U.S. deploys forces unilaterally.

The Economy Act (31 U.S.C. § 1535) provides another alternative means of fulfilling requirements. An executive agency may transfer funds to another agency, and order goods and services to be provided from existing stocks or by contract. For example, the Air Force could have construction performed by the Army Corps of Engineers, and the Army might have Dep't of Energy facilities fabricate special devices for the Army. Procedural requirements for Economy Act orders, including obtaining contracting officer approval on such actions, are set forth in FAR Subpart 17.5, DFARS 217.5, and DFAS-IN 37-1. A general officer or SES must approve Economy Act Orders placed outside DOD. See DFAS-IN 37-1, para. 12-7f.

Extraordinary contractual actions under Public Law 85-804 (50 U.S.C. § 1431-1435; FAR Part 50) may be taken under the broad residual authority of the SECARMY to initiate extraordinary contractual actions to facilitate national defense. Requiring activities may request that the Secretary use this authority. There are few limitations on use of these powers. FAR 50.203(a). Procedures for requesting use of these powers are found in FAR Subpart 50.4, DFARS Subpart 250.4, and AFARS Subpart 50.4. Congress still must appropriate funds needed to pay obligations incurred under this authority.

Leases of Real Property. The Army is authorized to lease foreign real estate at an annual rent of under \$250,000. 10 U.S.C. § 2675. Authority to lease is delegated on an individual lease basis. AR 405-10, para. 3-3b. Billeting services are acquired by contract, not lease. True leases normally are accomplished by the Army Corps of Engineers using area teams.

INTERNATIONAL LAW CONSIDERATIONS IN THE ACQUISITION OF SUPPLIES AND SERVICES

During Military Operations. We generally cannot rely on the principles of international law for the acquisition of supplies and services to support military operations. Limitations under international law make it imperative that we normally acquire supplies and services using U.S. acquisition laws. Nevertheless, battlefield acquisition techniques may prove a valuable means of supporting some of the needs of a deployed force when active combat or actual occupation of hostile territory occurs. Chapter 9 provides a summary of the international law principles which govern the acquisition of property while opposing an enemy force or in occupied territory.

Policing The Battlefield. The Grenada and Panama operations spawned a large number of irregular or unauthorized procurements and other actions with procedural defects. At the end of active hostilities, U.S. forces faced the problem of correcting errors made in acquisitions supporting combat units. Generally, resolution involved ratification, extraordinary contractual actions, and GAO claims procedures.

Ratification of Contracts Executed by Unauthorized Government Personnel. Only certain officials (chief of a contracting office, Principal Assistant Responsible for Contracting (PARC), Head of Contracting Agency (HCA)) may ratify agreements made by unauthorized persons, which bind the U.S. in contract. FAR 1.602-3. There are dollar limits on the authority to ratify unauthorized commitments:

Up to \$10,000 - Chief of Contracting Office
\$10,000 - \$100,000 - PARC
Over \$100,000 – HCA

These officials may ratify only when:

The government has received the goods or services.
The ratifying official has authority to obligate the U.S. now, and could have obligated the U.S. at the time of the unauthorized commitment.
The resulting contract would otherwise be proper (a proper contract type, a contract not prohibited by law, etc.), and adequate funds are available, were available at the time of the unauthorized commitment, and have been available continuously since that time.
The price is fair and reasonable.

Extraordinary Contractual Actions. If ratification is not appropriate, e.g., where no agreement was reached with the supplier, the taking may be compensated as an informal commitment. FAR 50.302-3. Alternatively, the supplier may be compensated using service secretary residual powers. FAR Part 50.

Requests to formalize informal commitments must be based on a request for payment made within 6 months of furnishing the goods or services, and it must have been impracticable to have used normal contracting procedures at the time of the commitment. FAR 50.203(d).

These procedures have been used to reimburse owners of property taken during the Korean War (AFCAB 188, 2 ECR § 16 (1966)); in the Dominican Republic (Elias Then, Dept. of Army Memorandum, 4 Aug. 1966); in Jaragua S.A., ACAB No. 1087, 10 Apr. 1968; and in Panama (Anthony Gamboa, Dep't of Army Memorandum, Jan. 1990).

General Accounting Office (GAO) Claims. GAO claims procedures provide another method of settling claims³ for which the legal authority or procedures are uncertain. The GAO has broad authority to settle claims against the U.S. See 31 U.S.C. § 3702(a); Claim of Hai Tha Trung, B-215118, 64 Comp. Gen. 155

³ Quantum meruit (unjust enrichment) claims no longer go to the GAO. These claims are adjudicated before DOHA (Defense Office of Hearings and Appeals). Quantum meruit claims should be submitted to the KO and then forwarded through channels with an administrative record/file to DOHA.

(1984). The procedures are set forth in 4 C.F.R. Part 30, and in Title 4, GAO Policies and Procedures Manual for the Guidance of Federal Agencies. *See also* DFAS-IN 37-1, paras. 20-19 & 20-96.

Voluntary Creditors. Generally, government employees who make payments from private funds on behalf of the U.S. may not be reimbursed. See 31 U.S.C. § 1342; Voluntary Payments--Gov't Reimbursement Liability, B-115761, 33 Comp. Gen. 20 (1953). A limited exception to this rule may apply in cases of urgent, unforeseen emergencies. Reimbursement of Personal Expenditures by Military Member for Authorized Purchases, B-195002, May 27, 1980, 80-2 CPD ¶ 242. Circumstances authorizing reimbursement include protection of government property, Meals--Furnishing--General Rule, B-177900, 53 Comp. Gen. 71 (1973), and unforeseen impediments to completion of an urgent agency mission, Reimbursement of Personal Expenditures by Military Member for Authorized Purchases, B-195002, May 27, 1980, 80-2 CPD ¶ 242.

GAO claims procedures may be used to reimburse employees who have made payments which may fit within the above exceptions to the general rule. The case at 64 Comp. Gen. 155 involved a claim by a Vietnamese man that the GAO determined to be cognizable, but which was barred by a statute of limitations. The case at 33 Comp. Gen. 20 involved a person who submitted a voucher for \$13.50, \$9.00 of which was denied. A supervisor reimbursed that person the \$9.00 out of his own pocket, and claimed that money by letter to GAO (GAO denied recovery because supervisor volunteered payment, and proper way was for person himself to file directly with GAO for \$9.00). The case at 53 Comp. Gen. 71 involved a claim for the cost of providing food service to Federal Protective Services Officers; the GAO found it reimbursable on an emergency basis because the officers had to be on call to protect a federal building occupied by protesters. If the GAO believes that a meritorious claim cannot be paid because an appropriation is not available for its payment, GAO reports to Congress. 31 U.S.C. § 3702(d). This report may form the basis for congressional private relief legislation.

CONCLUSION

Planning is critical to the success of contracting operations in an operational setting. Identification and proper training of contracting personnel before deployment is essential. In addition to understanding the basic contracting rules that will apply during U.S. military operations, contracting personnel also must know basic fiscal law principles (*see* Chapter 25). Unauthorized commitments are easier to avoid than to correct through ratifications. Avoid them by putting contracting capability where it is needed on the battlefield. When they do occur, ensure that unauthorized commitments are detected and reported early while they are easier to correct.

APPENDIX A:

U.S. GOVERNMENT

PURCHASE ORDER—INVOICE—VOUCHER

DATE OF ORDER	ORDER NO.
PRINT NAME AND ADDRESS OF SELLER (Number, Street, City, and State)*	
P A Y E E	
FURNISH SUPPLIES OR SERVICES TO (Name and address)*	

SUPPLIES OR SERVICES	QUANTITY	UNIT PRICE	AMOUNT

AGENCY NAME AND BILLING ADDRESS*	TOTAL
P A Y O R	DISCOUNT TERMS
	% DAYS
	DATE INVOICE RECEIVED
ORDERED BY (Signature and title)	

PURPOSE AND ACCOUNTING DATA

PURCHASER —To sign below for over-the-counter delivery of items	
RECEIVED BY	
TITLE	DATE
SELLER —Please read instructions on Copy 2	
<input type="checkbox"/> PAYMENT RECEIVED \$.....	<input type="checkbox"/> PAYMENT REQUESTED \$.....
NO FURTHER INVOICE NEED BE SUBMITTED	
SELLER	DATE
BY (Signature)	
I certify that this account is correct and proper for payment in the amount of \$	DIFFERENCES
(Authorized certifying officer)	ACCOUNT VERIFIED: CORRECT FOR
PAID BY <input type="checkbox"/> CASH	DATE PAID
OR (Check No.)	VOUCHER NO.
* PLEASE INCLUDE ZIP CODE	1. SELLER'S INVOICE (See Instructions on Copy 2)
STANDARD FORM 44a (Rev. 10-83) PRESCRIBED BY GSA, FAR (48 CFR) 53.213(c)	

APPENDIX B: ORDERING OFFICER'S HANDBOOK

TABLE OF CONTENTS

CHAPTER 1 - INTRODUCTION

CHAPTER 2 - FUNDING

CHAPTER 3 - RESPONSIBILITIES AND DUTIES OF ORDERING OFFICERS

CHAPTER 4 - STANDARD FORM 44 (SF 44)

CHAPTER 5 - PRE-PLANNING

CHAPTER 1: INTRODUCTION

PURPOSE -- This handbook provides a consolidated source of information for an ordering officer to use during contingency operations or exercises. Concepts and guidelines contained in this handbook also may be used by contracting personnel during deployment exercises.

SOURCE -- Materials contained in this handbook are based on regulatory guidelines concerning contingency contracting, and after-action reports from actual deployments.

DEFINITIONS -- Contingency -- An operation in which members of the military are or may become engaged in active hostilities against an enemy or an opposing force. It does not include routine training exercises or activities at or away from the home station.

Contingency contracting -- Provides those essential supplies and services needed to sustain the mission during a contingency operation.

MISSION STATEMENT -- "To support purchases of over-the-counter supplies and services essential to the mission of deployed units." The operative word is "support." A truly effective ordering officer never forgets the mission is to provide timely support to the unit by purchasing those legitimate requirements at a fair and reasonable price.

CHAPTER 2: FUNDING ISSUES

INTRODUCTION -- This chapter highlights appropriate contingency contract funding practices. In every case, proper authorities must certify appropriated funds as available prior to an ordering officer's execution of an SF 44. The procedures for acquiring such certification will depend on the location and duration of the deployment, and proximity of the Finance and Accounting Officer. Failure to secure sufficient funds prior to the execution of an SF 44 will cause delays in payment which create an embarrassment to the unit and may eliminate an important source of supply. Such a failure also may result in adverse consequences for the ordering officer personally.

FINANCE AND UNIT RELATIONSHIPS -- A deployed unit must maintain a close working relationship with its Finance and Accounting Officer for timely fund certifications and payments. Communications must be maintained throughout the deployment to ensure expenditures are within the funds available, and that any supplemental funding is obtained prior to making purchases. Early coordination with the Finance and Accounting Officer will avoid confusion and will assist in a more organized departure.

FUNDING PROCEDURES -- Prior to deployment, the unit must submit a funding document, certified by the proper authority, to the Directorate of Contracting. The document that usually serves as support for this funding action is DA Form 3953, Purchase Request and Commitment. The DA Form 3953 must state the number of SF 44s needed by the deploying unit and the approximate time frame for their use. When approved by the finance officer or designee, the DA Form 3953, Purchase Request and Commitment, makes funds available for obligation and records them as commitments in accounting records. The amount approved is an estimate of the amount that may be obligated by the recipient unit for a specific period of time and designated purpose. DA Form 3953 normally is issued to the Directorate of Contracting to permit requirements to be funded without having to certify "funds availability" for each requisition. If the Directorate of Contracting is issued such a bulk-funded DA Form 3953, the ordering officer is responsible for keeping a record of obligations and the remaining balance of funds on the reverse of the form.

CLASS A PAYING AGENTS -- Class A paying agents are appointed when payment to vendors cannot be made by disbursement from a central paying office. The use of Class A paying agents often is necessary when paying in foreign currency. Their use also expedites payments to help establish and maintain good vendor relationships. Most small businesses in CONUS and overseas cannot afford to wait for payment for

long periods of time, and availability or lack of expedited payment will influence their decision to do business with the Government, or the prices they charge. Most overseas purchases are cash-and-carry only.

CLASS A PAYING AGENTS' DUTIES -- Class A paying agents are appointed in writing by the installation commander or individual commanders of tenant activities. They make payments for purchases made by the ordering officer. Prior to deployment, the paying agent should receive a thorough briefing from the Finance and Accounting Officer on duties and responsibilities, and be given written operational instructions. Designated pick-up points and emergency procedures are essential for the timely release and replenishment of funds.

CHAPTER 3: RESPONSIBILITIES AND DUTIES OF ORDERING OFFICERS

Before buying anything, ordering officers must ensure that:

- A. Sufficient funds are available. A DA Form 3953, Purchase Request and Commitment Form, signed by a Budget Officer or other designated certifying officer must be in place prior to the ordering officer entering into any transactions.
- B. The purchase amount of any one transaction does not exceed the dollar limitation specified in the appointment letter. The requirement will not be split to avoid this dollar limitation. The current limitation for use of the SF 44 is \$2,500 (\$25,000 is the limitation for aviation fuel).
- C. The supplies or services are available in the local trade area.
- D. One delivery of supplies or services and one payment will be made per SF 44.
- E. The price is fair and reasonable.
- F. The purchases are rotated among sources of supply when possible.
- G. Items are justified and mission essential.

The ordering officer must also:

- A. Prepare the Standard Form 44 in accordance with the completion instructions of Chapter 4.
- B. Comply strictly with all provisions of the appointment letter.
- C. Maintain a register of orders issued and copies of each SF 44 with supporting documents, in accordance with the recording instructions of Chapter 4.
- D. Promptly report individual transactions made during the month and at the completion of the operation, in accordance with Chapter 4.
- E. Become thoroughly familiar with the Joint Ethics Regulation, DOD Reg. 5500.7-R, and review it at least semiannually. The ordering officer will furnish the appointment authority a signed statement that procurement integrity requirements have been read and understood.

CHAPTER 4: STANDARD FORM 44

GENERAL -- This chapter prescribes policies and procedures governing the activities of ordering officers authorized to make simplified acquisitions using Standard Form 44.

DEFINITIONS -- Ordering Officer -- a military or DOD civilian employee authorized to make simplified acquisitions of supplies and non-personal services by virtue of an appointment letter issued by the Director of Contracting. Individuals considered for appointment must be qualified and have the time available to act as an ordering officer. Class A Agent -- a Commissioned, Warrant or Noncommissioned Officer in the grade E-7 or above, appointed to act as an agent of the Finance and Accounting Officer (FAO) for the purpose of making payments as specified in the appointment letter. Receiving Officer -- a military or DOD civilian employee, from the requiring activity, normally in a position to verify receipt of supplies or services. This individual does not require orders. Whenever feasible, the ordering officer and receiving officer should be separate individuals.

POLICIES -- **USE OF STANDARD FORM 44**

- A. The Standard Form 44 is printed as a carbon interleaved form, with four sheets per set, and provides in one document a Purchase or Delivery Order, a Receiving Report, a Property Voucher, and a Payment Voucher.
- B. Purchases with this form will only be made by a duly appointed ordering and/or contracting officer. Total dollar amount of each SF 44 will not exceed the dollar limitation specified in the appointment letter or by regulation.

- C. Orders will be for off-the-shelf items. Prices may be obtained by telephone or from a vendor's place of business. Only one source of supply must be considered, so long as the ordering officer can justify the price as reasonable. Do not use the same vendor all the time. Switching vendors will increase the interest of several vendors in conducting business with the government, and ensure reasonable prices.
- D. Similar type items will be consolidated, whenever possible, into one order. When the aggregate monetary amount exceeds the authorized dollar limitation of the ordering officer, requirements will not be split to avoid the limitations on the ordering officer's authority. These requirements will be referred to the contracting officer for procurement action.
- E. Ordering officers cannot redelegate their responsibilities. They must sign all documents used for purchasing with the same name as appears in their appointment letter and use the title "Ordering Officer." No one will sign for an ordering officer under any circumstances.
- F. When a purchase is to be made using the SF 44, the ordering officer executes the purchase document. The items will be signed for by the receiving officer and paid by the Class A Agent. If the Class A Agent is not available, and depending on the circumstances, the ordering officer either will give the Seller copies 1 and 2 of the SF 44 with instructions to forward copy 1 to the Finance and Accounting Office (FAO) designated on the form for payment, or will only give copy 2 to the Seller for his records, and send copies 1 and 3 to the FAO directly for payment.
- G. Ordering officers will not make any purchases from individuals who are employed by the U.S. Government, or from a company with which the ordering officer has an interest or stock. If this is the only source of supply, the appointing authority must be notified.

DISTRIBUTION OF THE SF 44

- A. When the SF 44 is paid immediately by the Class A Agent, copy 1 is signed by the seller and given directly to the Class A Agent; if not, see para. f. above under "Policies."
- B. Copy 2 (seller's copy of invoice) will be given to the vendor at the time of purchase.
- C. Copy 3 will be annotated by the receiving organization, and forwarded to the proper FAO/Class A Agent as the receiving report.
- D. Copy 4 will be retained by the ordering officer and forwarded with the end-of-month report.

USE OF THE SF 44

- A. The ordering officer must be aware that just because an item is authorized by a TDA or other publication does not mean it is authorized for local purchase. Close coordination with unit supply personnel is required to make these determinations. Items which are not utilized in direct support of the activity for which the ordering officer was appointed may not be purchased. Purchasing items, or contracting for services, other than those authorized, is not legal and the ordering officer may be held pecuniarily liable. For example, some ordering officers in Grenada bought "PT uniform" T-shirts for their units, and ended up paying for them personally.
- B. The ordering officer must be aware that the SF 44 is a direct draft upon the U.S. Treasury, which may be accepted by vendors without further proof of authority to execute. Therefore, the ordering officer must safeguard all SF 44s, or risk being held accountable for those forms presented for payment over the signature of someone other than the ordering officer.
- C. The SF 44 may be used to effect purchases when one or more of the following conditions exist:
 - (1) When an emergency situation precludes submission of a purchase request through normal supply channels. Lack of foresight or pre-planning does not constitute an emergency.
 - (2) When authorized supplies are not available through normal supply channels and local procurement for these supplies is determined to be the most efficient means of re-supply.
 - (3) When there are no other sources of U.S. Government supply available within a reasonable area.

COMPLETION OF STANDARD FORM 44

Block 1 -- Self explanatory.

Block 2 -- Order No. The order number consists of thirteen (13) alpha numeric characters as follows:

Characters 1 thru 6 -- Activity Address Number

Characters 7 and 8 -- Current Fiscal Year (i.e. 91)

Character 9 -- M

Character 10 thru 13 -- Serial number assigned in numerical sequence preceded by the alpha character X (i.e. X001). A completed order number looks like the following:

DAHC76-91-M-X001.

- Block 3 -- Complete name and address (including zip code) of supplier.
- Block 4 -- Unit and address for which the ordering officer is making the purchase and is otherwise assigned.
- Block 5 -- Description of supplies or services to include quantity, unit price, and extended amount.
- Block 6 -- Self explanatory.
- Block 7 -- Discount terms, if applicable.
- Block 8 -- Agency name and billing address of the FAO.
- Block 9 -- Signature of ordering officer.
- Block 10 -- Purpose and Accounting Data. Give complete fund citation. The ordering officer needs to obtain this information from the appropriate budget officer.
- Block 11 -- Signature of the receiving officer or ordering officer as appropriate.
- Block 12 -- Self explanatory.
- Block 13 -- Self explanatory.
- Block 14 -- Check this block and insert the total amount from Block 6. NOTE: If the Seller is going to be responsible for submitting copy #1 (original) of the SF 44 to the FAO, give the Seller copies 1 and 2 with instructions on processing of the original (copy 1) to the FAO.
- Block 15 -- If the Seller is going to use the SF 44 as its invoice, it needs to sign in this block. If the Seller is using its own invoice, attach the invoice to copies 1 & 3, and forward to Finance & Accounting Office, or give these copies to the Class A Agent. When the supplier wants to use its own invoice, it does not sign in
- Block 15.
- Block 16 -- Self explanatory.

RECORD OF PURCHASES BY THE ORDERING OFFICER

- A. The ordering officer will maintain a record of purchases made in register format. The register will show, as a minimum, purchase instrument number, vendor identification, and total cost of the transaction. Copy 4 of the SF 44, with a copy of the Seller's sales slip or invoice, will be filed with or cross-referenced to the related register page and entry number.
- B. The ordering officer also will maintain a record of funds remaining available to him on the back of the DA Form 3953. This will be maintained in checkbook register style, with each entry being subtracted and a running balance maintained at all times.

REPORTING OF INDIVIDUAL TRANSACTIONS

- A. A report of the transactions made during the month will be made directly to the Appointing Authority no later than the last day of each month. Cut off date for the report will be the 20th day of each month to ensure submittal of the report by the last day of the month.
- B. Ordering officers appointed for a period of less than one month, or for an operation lasting less than four weeks, and whose period of appointment overlaps the 20th of the month in which the appointment begins, will submit a single report within 10 days of the date of termination stated in the appointment letter or the end of the operation.
- C. Negative reports are required in all cases.

CLEARANCE REQUIREMENTS / LETTERS OF CLEARANCE

- A. When an ordering officer's appointment is terminated, the ordering officer will bring to the Director of Contracting or Appointing Authority the following:
 - (1) Original copy of appointment letter.
 - (2) Copies of all reports filed previously.
 - (3) A complete report for any period between the last report and the date of termination, including all copies of the SF 44, all sales slips or other receipts, and any justifications, if any, regarding price or source reasonableness.
 - (4) An original copy of the DA Form 3953.
 - (5) Any unused SF 44s in his possession.
- B. A Letter of Clearance/Termination signed by the contracting officer will be returned to the ordering officer after all the above has been reviewed and certified to be acceptable.

CHAPTER 5: PRE-PLANNING

GENERAL -- At this point, the ordering officer should have a basic understanding of legal authorities, funding practices, and duties. The previous chapter dealt with mechanics on how to fulfill those duties.

This chapter will focus on pre-planning and preparation actions for establishing local purchase capability. While not intended to be all inclusive, it should provide the ordering officer a good foundation and better perspective on his or her role.

PRE-PLANNING AND PREPARATION -- There are many things a unit can and should do to prepare for an operation. Preparing in advance is important for one very basic reason: there will not be enough time to do these things once an operation gets under way. The following areas are those an ordering officer should at least address and plan for prior to deployments.

- A. **Personal and Administrative Preparations.** The following is a list of administrative requirements an ordering officer must possess to start an operation:
 - 1. SF 44s furnished by the Directorate of Contracting.
 - 2. Ordering officer handbook.
 - 3. Copy of the DA Form 3953 that the SF 44s were issued against.
 - 4. Ordering officer appointment letter.
 - 5. Civilian clothes. In some instances, it may be necessary to keep a low profile and blend in with the local community.
- B. **Arrange for the Class A paying agent to accompany the ordering officer with local currency for local purchases.**
- C. **Establishing the Rules of Engagement.** The ordering officer needs to have a plan that will best support the unit's needs. This will entail establishing a set of rules for customers to follow when submitting requirements. The rules should include instructions on purchase descriptions, funding, pick-up, and delivery procedures. The rules should also discuss consolidating requirements, when possible, to avoid unnecessary trips downtown. When multiple units are operating in a particular area, the ordering officers and their commanders should coordinate their requirements to avoid competing among themselves for scarce resources.
- D. **Locating Sources.** One of the most difficult problems for the ordering officer at an unfamiliar deployment site is locating capable contractors who can satisfy the unit's requirements. The following are various ways an ordering officer may solve this problem:
 - 1. **Knowledgeable interpreter/guide.** This person is a logical first choice for obtaining sources, although the ordering officer must be careful to ensure that he or she is not related to most of the vendors.
 - 2. **U.S. Embassy (if available).** This can be an excellent source of information. The defense attaché office in most embassies can help with currency conversions and storage of funds, as well as providing a source list of reputable contractors. In addition, the Embassy General Services officer (GSO) may be able to provide some contracting support -- particularly if a contract is to be written with the host country's government.
 - 3. **Site surveys.** This is an excellent tool to speed up the ordering process. Ordering officers should add sources to the site survey list as they become known.
 - 4. **Ask around.** There are a multitude of ways of finding sources. Some successful ways have included contacts with the Chamber of Commerce (or equivalent), business associations, local clergy, influential citizens, and local government leaders such as the mayor. The major hotel chains overseas have business offices which can help locate local sources of supplies. In addition, there is nothing wrong with asking other contractors where certain requirements might be obtained. Finally, the local yellow pages is an invaluable source of information on local firms.

APPENDIX C

CONTRACT & FISCAL LAW PECULIAR WEBSITES

CONTENT	ADDRESS
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(Unless otherwise noted the internet prefix includes http://

A

ABA Pub. Contract Law Section (Agency Level Bid Protests)	www.abanet.org/contract/federal/bidpro/agen_bid.html
Acquisition Reform	tecnet0.jcte.jcs.mil:9000/htdocs/teinfo/acqreform.html
Acquisition Reform Network	www.arnet.gov
ACQWeb - Office of Undersec. of Def. (Acq. & Tech.)	www.acq.osd.mil
Air Force Acquisition Reform	www.safaq.hq.af
Air Force FAR Supplement	www.hq.af.mil/SAFAQ/contracting/far/affars/html
Air Force Materiel Command Web Page	www.afmc.wpafb.af.mil
A.F.Site, FAR, DFARS, F.R.	farsite.hill.af.mil
AMC Command Counsel News Ltr	www.amc.army.mil/amc/command_counsel/
Army Acquisition Website	acqnet.sarda.army.mil/
Army Fin. Mgt Home Page	www.asafm.army.mil/homepg.htm
ASBCA Home Page	www.law.gwu.edu/burns

C

CAGE Code Assignment Also Search/Contractor Registration (CCR)	www.disc.dla.mil
Commerce Business Daily (CBD)	cbdnet.access.gpo.gov/index.html
Comptroller General Decisions	www.gao.gov/decisions/decison.htm
Congressional Record via GPO Access	www.access.gpo.gov/su_docs/aces/aces150.html
Contingency Contracting	www.afmc.wpafb.af.mil/organizations/HQ-AFMC/PK/pko/contingk.htm
Contract Pricing Guides (address)	www.gsa.gov/staff/v/guides/instructions.htm
Contract Pricing Reference Guides	www.gsa.gov/staff/v/guides/volumes.htm
Cost Accounting Standards	www.fedmarket.com/cas/casindex.html

D

DCAA Web Page	www.dtic.mil/dcaa *Before you can access this site, must register at www.govcon.com
Debarred List	www.arnet.gov/epls/
Defense Acquisition Deskbook	www.deskbook.osd.mil
Defense Acq. University	www.acq.osd.mil/dau/
Defense Contracting Regulations	www.dtic.mil/contracts
Defense Procurement	www.acq.osd.mil/dp/
DFARS Web Page (Searchable)	www.dtic.mil/dfars
DFAS	www.dfas.mil/
DIOR Home Page - Procurement Coding Manual/FIPS/CIN	web1.whs.osd.mil/diorhome.htm
DOD Claimant Program Number (procurement Coding Manual)	web1.whs.osd.mil/diorhome.htm
DOD Contracting Regulations	www.dtic.mil/contracts
DOD SOCO Web Page	www.dtic.mil/defenseink/dodgc/defense_ethics
DOL Wage Determinations	www.ceals.usace.army.mil/netahtml/srv.html

F

FAC (Fed. Reg. Pages only)	www.gsa.gov:80/far/FAC/FACs.html
FAR (GSA)	www.arnet.gov/far/
Federal Acquisition Jumpstation	procure.msfc.nasa.gov/fedproc/home.html
Federal Acquisition Virtual Library (FAR/DFARS, CBD,etc)	159.142.1.210/References/References.html
Federal Employees	www.fedweek.com
Federal Register	law.house.gov/7.htm
Federal Web Locator	www.law.vill.edu/Fed-Agency/fedwebloc.html
Financial Management Reg.	www.dtic.mil/comptroller/fmr/
Financial Ops. (Jumpsites)	www.asafm.army.mil
FMS Website	www.fms.treas.gov/c570.html

G

GAO Documents Online Order	gao.gov/cgi-bin/ordtab.pl
GAO Home Page	www.gao.gov
GAO Comptroller General Decisions (Allows Westlaw/Lexis like searches)	http://www.access.gpo.gov/su_docs/aces/aces170.shtml?desc017.html
GovBot Database of Government Web sites	www.business.gov
GovCon - Contract Glossary	www.govcon.com/information/gcterms.html
Gov't. Information Locator Services Index U.S. Army Publications	www-usappc.hoffman.army.mil/gils/gils.html

L

Laws, Regulations, Executive Orders, & Policy Library (jumpers to various contract law sites - FAR/FAC/DFARS/AFARS)	159.142.1.210/References/References.html#policy , etc acqnet.sarda.army.mil/library/default.htm
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N

NAF Financial (MWR)	www.asafm.army.mil/fo/naf/naf.htm
National Performance Review Library	www.npr.gov/library/index.html
NAVSUP Home Page	www.navsup.navy.mil/NAVSUP/home.htm
Navy Acquisition Reform	www.acq-ref.navy.mil/

O

OGC Contract Law Division	www.ogc.doc.gov/OGC/CLD.HTML
OGE Ethics Advisory Opinions	fedbbs.access.gpo.gov/libs/oge_opin.html
Office of Acquisition Policy	www.gsa.gov/staff/ap.htm
Office of Deputy ASA (Financial Ops) Information on ADA violations/NAF Links/Army Pubs/and Various other sites	www.asafm.army.mil/financial.htm
Office of General Counsel – U.S. Department of Commerce	www.ogc.doc.gov/OGC/CLD.HTML
Office of Management and Budget (OMB)	www.access.gpo.gov/su_docs/budget/index/html
Office of Management and Budge Circulars	www.whitehouse.gov/WH/EOP/omb/html
OFPP (Guidelines for Oral Presentations)	www.doe.gov/html/procure/oral.html
OFPP (Best Practices Guides)	www.arnet.gov/BestP/BestP.html
Operational Contracting Home Page	www.afmc.wpafb.af.mil/organizations/HQ-AFMC/PK/pko/index.htm

P

Policy Works - Per Diem Tables	www.policyworks.gov/org/main/mt/homepage/mtt/perdiem/perd97.htm
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Producer Price Index	www.bis.gov/ppihome.htm
Purchase Card Program	purchasecard.dfas.mil

S

SBA Gov't Contracting Home Page	www.sbaonline.sba.gov/GC/
Service Contract Act Directory of Occupations	www.dol.gov//dol/esa/public/regs/compliance/whd/wage/main.htm
SIC	spider.osha.gov/oshstats/sicser.html